

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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MICHAEL WALKER, Plaintiff,

JURY TRIAL DEMANDED

-against-

COMPLAINT

THE CITY OF NEW YORK, ("CITY") a municipal Corporation; JOSEPH PONTE, Commissioner of New York City Department of Corrections; CAROLYN SANDERS, Warden at "NIC"; NADENE PINNOCK, ("DOC") Deputy General Counsel; HEALTH AND HOSPITAL CORPORATION, ("HHC"); VICKI BURGESS, Correction Officer at "NIC"; NINA EDWARDS, ("DOC") Disability Rights Coordinator; JOHN AND JANE DOES 1 thru 20 *sued in their individual And official capacities.*

18 CV 0149

Defendant(s).
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1. This action is brought to end a pattern and practice of unconstitutional, discriminatory, and inhumane treatment and deliberate indifference to serious medical and daily living needs of handicapped prisoners housed within all New York City "DOC" facilities and in the North Infirmiry Command, "NIC" at Rikers Island a New York City Department of Correctional ("NYC" "DOC") facility.

II. Parties, jurisdiction and Venue

2. Plaintiff MICHAEL WALKER, a former inmate of the North Infirmiry Command, "NIC," was discriminated against in receiving reasonable accommodations while a detainee confined at "DOCS" located in the City of New York, plaintiff currently resides at Sullivan Correctional Facility Sensorial Disability Unit, "S.D.U" 325 Riverside Drive, P.O. Box 116, Fallsburg, New York 12733-0116.

3. Plaintiff MICHAEL WALKER, is and was at all times mentioned herein a 50 year old “legally blind” adult citizen of the State of New York, and bring this action for injunctive and declaratory relief on behalf of all current and future disable inmates, and individually for money damages to redress defendants violation of plaintiffs rights, and for contempt of this Courts orders in Vega v. Sielaff, No. 82 Civ 6475 (MEL) (ordering *inter alia* to provide appropriate cleaning, sanitation, medical care, and appropriate handicapped facilities for Rikers jails) and (Bennet v. City, et,al 07 Civ 2823 (RPP) (ordering *inter alia* that the Roof be fixed in Dorm # 3 and is structurally sound and safe, that “legally Blind” and “visually impaired inmates be transported via para-transit van that long and short mobility canes are to be issued, and end a pattern and practice of creating or permitting conditions that impair and deny basic needs to Dorm # 3 inmates and the existence of a pattern and practice of discriminating against disable inmates in regards to access to essential public services, and the alleged failure to train, supervise, or discipline officers at NIC) (and a voluntary agreement between the USA v. DOC) (ordering *inter alia* that DOC designate an responsible employees to coordinate DOC efforts to comply with DOC obligations under the “ADA” and “DOC” adopt and publish grievance procedures providing for the prompt and equitable resolution of complaints, and designate at least one civilian administrative employees assigned to each facility at which any inmates with a disability is housed, DOC shall modify existing directives, rules, policies and procedures concerning the screening& classification of inmates upon entry into the custody of DOC to ensure that, when a person with or claiming a disability is received into custody of DOC, the disability rights coordinator for inmates is advised within 24 hours.

4. Defendant CITY OF NEW YORK, maintains the New York City Department of Corrections, (hereinafter referred to as (“DOCS”) a duly authorized public authority and/or

Corrections Department, authorized to perform all functions of a Correction Department as per the applicable of the aforementioned CITY OF NEW YORK.

5. Defendant JOSEPH PONTE, was at all relevant times herein the Commissioner of the New York City Department for the CITY OF NEW YORK, with the responsibility for the policy, practice, supervision, implementation, and conduct of all “DOC” matters and is responsible for training, supervision, implementation, and conduct of all “DOC” personnel, including defendants reference herein, as commissioner PONTE is also responsible for the care, custody and control of all incarcerated individuals in DOCS facilities, In addition is responsible for enforcing the rules, policies and procedures for (“DOCS”) and for ensuring that DOCS personnel obeyed the laws of the United States and the State of New York, at all relevant times herein Defendnat PONTE was acting under color of law and in the scope of his capacity as an agent, servant, and/or employee of the CITY, Defendant PONTE is being sued in his individual and official capacities.

6. Defendant CAROLYN SANDERS, was at all relevant times herein the warden of the municipal detention center known as the North Infirmery Command, (“NIC”) for the City of New York, as warden of the prison, defendant was the highest ranking official at “NIC” and was responsible for the supervision, oversight and discipline of the uniformed security staff at “NIC”, she is responsible for the care, custody and control of all incarcerated individuals at “NIC,” while carrying out the acts and omissions alleged herein, defendant SANDERS responsibilities were to be carried out in manner consistent with the legal mandates that govern the operation of the new York City detention facilities, including “DOC” policies, procedures, directives and protocols, in addition to all relevant local, state and federal statutes and regulations, defendant SANDERS was acting in the scope of her capacity as an agent, servant, and/or employee of the CITY and acted under color of state law, defendant is being sued in her individual and official capacities.

7. Defendant NADENE PINNOCK, is and was at all relevant times herein the Deputy general Counsel of the Municipal “DOC” with the responsibility to ensure that the employees of the municipal are following all applicable laws in regards to operating the municipal and assisting with the policies and procedures, directives and make sure that the entity is in compliance with all applicable laws and that the entity did not knowingly or intentionally violate any incarcerated individuals rights, defendant PINNOCK participated in. had knowledge of, and/or failed to intervene in the denial of adequate medical care and reasonable accommodations and handicapped housing to the plaintiff, defendant PINNOCK, responsibilities were required to be carried out in a manner with the legal mandates that govern the operation of the new York City Detention facilities, including “DOC” policies, procedures, directives and protocols, in addition to al relevant local, state, and federal statutes and regulations, defendant PINNOCK is being sued in her individual and official capacities.

8. Defendant HEALTH AND HOSPITAL CORPORATION, (“HHC”), is and was at all relevant times herein engaged in providing medical services for the CITY OF NEW YORK, in the City’s detentions facilities, including the Otis Bantum Correctional Center, (“OBCC”) and North Infirmary Command, (“NIC”) under a contract with the CITY OF NEW YORK, HEALTH AND HOSPITAL CORPORATION, acted in the capacity of agent, servant and employee of the CITY OF NEW YORK, and is being sued in its individual capacity.

9. Defendant VICKI BURGESS, is and was at all relevant times herein a correction officer of the municipal (“DOC”) designated with the responsibility of care, custody and control of inmates in “DOC” facilities within the CITY OF NEW YORK, BURGESS, responsibilities were required to be carried out in a manner with the legal mandates that govern the operation of the new York City Detention facilities, including “DOC” policies, procedures, directives and protocols, in

addition to all relevant local, state, and federal statutes and regulations, defendant BURGESS is being sued in her individual and official capacities.

10. Defendant NINA EDWARDS, is and was at all relevant times herein the disability rights coordinator allegedly of the municipal DEPARTMENT OF CORRECTIONS, defendant participated in, had knowledge of, and/or failed to intervene in the denial of adequate medical care, and reasonable accommodations and handicapped housing to the plaintiff, defendant responsibilities included coordinating “DOC” efforts to comply with “DOC” obligations under the American with Disability Act, “ADA” with respect to “DOC” inmates, defendant responsibilities were required to be carried out in a manner consistent with the legal mandates that govern the operation of the New York City Detention facilities, including “DOC” policies, procedures, directives, and protocols, in addition to all relevant local, state, and federal statutes and regulations, defendant is being sued in her individual and official capacities.

11. This action arises and is brought pursuant to §§§§ 42 U.S.C. 1983 U.S.C. 12121, 12132, 12102, 28 C.F.R. 35.107, Title II of the American with Disabilities Act of 1990, “ADA” and § 504 and the rehabilitation Act of 1973 to remedy the deprivation under color of state law of rights guarantees by the, Eighth, Fourth and Fourteenth Amendments to the United States Constitution, and the Due Process clause and equal protection laws, negligence and malpractice under state law.

12. Venue is properly laid in this District under 28 U.S.C. § 1391 (b) (2) this being the District in which the claim arose.

13. Plaintiff claims for injunctive relief are authorized by rule 65 of the federal rules of civil procedure.

14. Upon information and belief, “DOC” receives federal funding to operate its correctional facilities, the accessibility requirements of section 504 and the Rehabilitation Act of

1973, and Title II of the American with Disabilities Act of 1990 “ADA” 42 U.S.C. 12131, et. seq.
apply

15. Jurisdiction is invoked pursuant to the aforementioned statutory and constitutional provision, and pursuant to 28 U.S.C. §§ 1331, and 1343 (a) (3) (a) (4), this being an action seeking to redress for the violation of plaintiffs constitutional and civil rights.

16. Supplemental jurisdiction is conferred upon this court by 28 U.S.C. § 1367 (a), over any and all state laws that are so related to the federal claims that they form a part of the same case or controversy.

TRIAL BY JURY

17. Plaintiff demands trial by jury on each and every one of his claims as plead herein pursuant to Fed. R. Civ P. 38 (b).

III. STATEMENT OF CLAIM

18. That at all times hereinafter mentioned, the defendants were “persons” for the purpose of §§§§ 42 U.S.C. 1983, 12131, 12132, 12101, 29 U.S.C. 794 (a) Title II section 504 of the American with Disabilities Act of 1990, and Rehabilitation Act of 1973 and acted under color of law to deprive the plaintiff of his constitutional and statutory rights as set forth more fully below.

19. At all times relevant hereto, and in all their actions described herein, said defendants were acting under color of statutes, ordinances, policies, customs and usage of the “CITY,” “DOC” “HHC”.

EXHAUSTION OF ADMINISTRATIVE REMEDIES

20. In accordance to 42 U.S.C. § 1997(e) plaintiff exhausted his administrative remedies DOC Directive #3376, entitled “Inmate Grievance and Request Program, (“IGRP”).

21. The New York City Department of Corrections is in violation of a Statute that has been the law for more than thirty years.

22. Historically the CITY and DOC have shown deliberate indifference and gross negligence towards disable inmates being confined in its detention facilities and has not complied with title II of the American with Disabilities Act of 1990, and has not followed the mandates of the disability Act or Rehabilitation Act of 1973, WHEREAS, the United States of America had to bring a civil action against the Department of Corrections to enforce a voluntary compliance of the public entity and there has been an ongoing investigation by the Department of Justice since October 24th, 2013 from the U.S. Attorney's Office for the Southern District of New York into whether the Department of Corrections complies with title II of the "ADA" of 1990, 42 U.S.C. 12131, which it has not, in addition the Department has not complied with the settlement agreement of a class dealing with disable inmates on *Rikers Bennet v. City, et, al* 2823 (RPP) not the USA v. DOC voluntary settlement agreements.

23. Defendants HEALTH AND HOSPITAL CORP, which merged with PHYSICIAN AFFILIATES OF GREATER NEW YORK, was formally Prison Health Services, ("PHS") prior to it merging with CORIZON HEALTH, which failed the "DOC" disable inmates for years.

24. The servants, agents, affiliated physicians, assistants, residents, intern aides, employees, and/or medical personnel within DOCS detention facilities remained the same just working under different corporations, which failed disable inmates for years, and showed deliberate indifference and negligence towards disable inmates in its custody in such a manner as to manifest a disregard for the safety and well-being of the plaintiff herein and not in accordance with the good and accepted standards of medical care and practice, thereby causing plaintiff condition to worsen and deteriorate.

25. In general defendants have showed deliberate indifference and negligence towards medical and reasonable accommodations needs of disable inmates being held in its custody, and particular neglected those of the plaintiff herein.

26. Inmates or detainees with disabilities like Plaintiff shall not “be excluded from participation in, or be denied the benefits of the services, programs, or activities” available to other inmates, 28 C.F.R. 35.152 (b) (1), furthermore the Correctional facilities services, programs and activities must be readily accessible to and useable by inmates with disabilities, including the Infirmary, and medical services at the North Infirmary Command, “NIC” Otis Bantum Correctional Center, “OBCC” as well as recreational facilities, library computers, visitation areas, commissaries, and other common areas used by inmates.

27. There is no reasonable accommodations or Auxiliary Aids and Services being afforded to “DOC” disable inmates in accordance to title II of the American with Disabilities Act of America, 42 U.S.C. 12131, et. seq. Furthermore the New York City Department of Correction has not complied with the Uniform federal Accessibility Standards (“UFAS”) or the 1991 Standards of Accessible Design, (“1991”) ADA Standards 29 C.F.R. part 36, Appendix D. 28 C.F.R. 35.151.(c)(2).

28. The Disability Rights Coordinator Defendant EDWARDS and assistant commissioner of health affairs BELLINER has failed to ensure that procedures for the prompt and equitable resolution of ADA complaints by inmates and/or request by inmates with disabilities for reasonable accommodations are in place, publicized, and implemented by process, investigating, and promptly acting upon inmates complaints and/or for reasonable accommodations and ensure that all staff who interact with inmates with disabilities are provided with adequate and appropriate

information and training of “ADA” issues, Directive #3802 Under definitions II.G and USA v. DOC settlement agreement stipulations.

29. From January 8th, 2017 until January 20th 2017 plaintiff a “legally blind” inmate with injuries to the right leg and contusions on the left leg with crutches and a broken finger and clearly disabled was sent to General Population at the Otis Bantum Correctional Center, “OBCC” and placed in an upstairs housing unit 7-Upper, amongst Security Risk Group, “SRG” Blood Gang members.

30. Directive #3802 reasonable accommodations depicts the procedures set forth for intake whenever a disable inmate is received at a “DOC” court facility, or is a direct admission to a Department facility, however staff is not following these processing procedures for disable inmates, and disable inmates are not being processed into the system according to policy and procedure, see Directive 3802 V.B. (1) (2) intake procedures, also USA v. DOC voluntary settlement agreement.

31. The Plaintiff had to repeatedly sign up for sick-call and filed complaints to try and get properly housed in handicap housing, and every time he was transported via bus, instead of the para van transport that DOCS was obligated to transport him on, See Bennet v. City, 2823, (RPP)

32. Once plaintiff was finally placed in the North Infirmary Command, “NIC” he was informed that handicap housing was shut down which is general population for disable inmates due to it not being in compliance with the American with Disabilities Act and a damaged roof, and was placed in a medical unit Dorm #1.

33. While in the Medical unit Dorm #1 plaintiff was issued a short mobility cane which plaintiff is 6’1 and was supposed to be issued a tall blind mobility cane in accordance to the Bennet v. City, et, al 2823 (RPP) settlement agreement which stipulated that tall and short mobility canes

were to be issued to legally blind and visually impaired inmates, the mobility cane was too short for plaintiff to utilized.

34. Plaintiff did not have the assistance of an inmate mobility assistant or sighted guide to assist him in his daily living, or to move around the facility, which according to policy and procedures “DOC” was obligated to employ two non-disable inmates to assist handicapped inmates in Dorm # 3 with their daily living needs, “DOC” was required to provide no fewer than two inmate assistances to be on duty at any one time between the hours of 7:00 am, 11 pm and shall provide no fewer than 1 inmate to be on duty between the hours of 11:00 to 7 am, See Bennet v. City,; et, al 2823 (RPP).

35. “DOC” has failed to implement and follow procedures for legally blind inmates for federal postage benefits as described in the United States Postal, publication 347 FREE MATTER FOR THE BLIND AND VISUALLY HANDICAPPED, persons are able to take advantage of such benefits while in “DOC” custody, “DOC” has failed to ensure that its employees are trained about the procedures or are properly disciplined for non-compliance with the procedure, Bennet v. City, et, al 2823 (RPP).

36. Plaintiff went to the law library, and asked Defendant VICKI BURGESS, the law library officer about assistive devices to utilize for “legally blind” and “visually impaired inmates, Plaintiff showed the Defendant his grievance about reasonable accommodations and letter from Dept. of Programs Ms. Chaplin, and Defendant NINA EDWARDS about assistive devices being in the law library, and Defendant BURGESS denied plaintiff from utilizing the assistive devices stating his medical documents of being legally blind and paper work had not merit, and that he could not utilize any assistive devices which falls under reasonable accommodations.

37. "DOC" has not designated a responsible employees to coordinate DOCS efforts to comply with DOC obligations under the "ADA" with respect to "DOC" inmates in accordance to the voluntary settlement agreement between U.S.A. v. D.O.C. see 28 C.F.R. 35.107. When plaintiff contacted defendant NINA EDWARDS she referred the request for reasonable accommodations to the Dept of Programs Ms. Chaplin at "NIC" when she supposed to have handled it herself.

38. There is no rubber non-slip shower mats for traction in the Dorm 1 shower, which throughout the years several legally blind and wheelchair bound inmates have slipped and fell in the shower, causing injuries to themselves including the plaintiff herein.

39. "DOC" has failed to fix the roof in Dorm # 3 so that it is leak free, in good and safe condition and is structurally sound, which housed disable inmates and is closed down due to it not being adequately modified to accommodate human habitation, and the roof supposed to have been repaired and the dorm adequately modified to accommodate handicap inmates, See Bennet v. City, et, al 2823 (RPP).

40. Upon information and belief, the federal funding allocated to the City and Department of Correction for handicapped inmates is being diverted, circumvented, misappropriated and not spent on equipment and supplies for disable inmates.

41. Defendant PINNOCK was served by the U.S. Attorney from the Southern District of New York in 2013 and 2015 about ADA violations dealing with DOC and the North Infirmary Command, and has failed to make any changes for the Department to be in compliance with the American with Disability Act accessible design 42 U.S.C. 12131 et, seq.

42. The law library does not have accessible fire exit for wheelchair users, > the fire exit must be accessible to wheelchair users. Bennet v. City, et, al 2823 (RPP).

43. The handrails of the ramp to the law library do not extent to the bottom of the ramp and do not extend 12 inches over the top and bottom landings see: 1991 Standards §§ 4.1.6 (1)(b). 4.1.2. (1) & 20, 4.1.3 (1) > The handrails of the ramp must extend at least 12 inches over the landing and the extensions must be leveled 2010 standards.

44. The Bottom 6 inches of the ramp has a slope of 30. 2 % see 1991 standards. §§ 4.1.6 (1) (b), 4.1.2 (1) & (2), 4.1.3 (1), 4.8.2 > The slope of the bottom of the ramp cannot exceed 8.33% 2010 standards §§ 206.1, 405.2.

45. None of the audible alarms in the common use spaces or cells include visual components, see 1991 standards §§ 4.1.6 (1), 4.1.3 (14) > visual alarms shall be provided in whenever audible alarms are provided in the facility, 2010 standards § 232.2.

46. The two telephones in all dormitories areas do not have accessible features, see 1991 standards §§ 4.1.6(1) (b), 4.1.3 (17) > The telephones must have accessible features, 2010 standards §§ 217, 704.3.

47. In Dorm #3 the bathroom, the individual showers are 55 ½ inches wide, See 1991 standards, §§ 4.1.6 (1) (b), 4.1.3 (11), 4.21. > A roll in shower must be at least 60 inches wide, 2010 standards §§ 213.3.6, 608.2.2.

48. In the bathroom, the rope that holds the shower curtain is approximately 48 inches above the floor. See 1991 standards §§ 4.1.6 (1)(b), 4.1.3 (2), 4.4.2 > An overhead object along a circulation path must be at least 80 inches above the floor. 2010 standards §§204.1, 307.4

49. In all bathrooms, there is no handheld showerhead and the fixed showerhead is 69 inches above the floor. See 1991 standards §§ 213.2, 608.6.

50. The pipes under the accessible lavatory are not insulated. See 1991 standards §§ 4.1.6 (1)(b), 4.1.3 (11). 4. 19.4> The pipes under the lavatory must be insulated to protect persons from burns and sharp abrasive edges. 2010 standards §§ 206.1, 406. 1.

51. NIC visit house, the curb near the Dormitory 3 exit has a slope of 9.6% see 1991 standards §§ 4.1.6 (1) (b), 4.1.2 (1) & (2), 4.7.2 > The slope of the curb ramp cannot exceed 8.33% 2010 standards §§ 206.1, 405.2.

52. The ramp at the door to the visit waiting area has a slope of 25.2 % see. 1991 standards. §§4.1.6 (1) (b) 4.1.2 (1) & (2), 4.8.2 > The slope of the ramp cannot exceed 8.33% 2010 standards §§ 206.1, 405.2.

53. Intake area the ramp to the intake area does not have a handrail on the side along the wall. See 1991 standards §§ 4.1.6 (1) (b), 4.1.3 (1), 4.8.5 > The ramp must have a handrail on both sides 2010 standards §§ 206.1, 405.8, 505.2.

54. The ramp does not extend over the top and bottom landings. See 1991 standards §§ 4.1.6 (1) (b), 4.1.2 (1) & (2), 4.1.3 (1), 4.8.5 > The ramp handrails must extend at least 12 inches over the landings and the extensions must be level. 2010 standards §§ 206.1, 405.8, 505.10.

55. In the receiving/holding cell, the top of the lavatory rim is 34 $\frac{3}{4}$ inches above the floor. See 1991 standards > The top of the lavatory must be no more than 34 inches above the floor 2010 standards §§213.12, 606.3.

56. In the receiving/holding cell, the sidewall at the toilet has two grab bars instead of one grab bar that is at least 42 inches long. See 1991 standards, §§ 4.1.6(1) (b), 4.1.3 (11) 4.16.4. > The side wall grab bar at the toilet must be at least 42 inches long and must extend at least 53 inches from the rear wall, 2010 standards §§ 213.2, 604.5.1.

57. In the receiving/holding cell, the toilet centerline is 20 inches from them sidewall. See 1991 standards §§ 4.1.6 (1) (b), 4.1.3 (11), 4.16.2 > The toilet centerline must be between 16 and 18 inches from the sidewall 2010 standards §§ 213.2, 604.2.

58. At most locations throughout the facility, where a drinking fountain is provided, there is only one drinking fountain of standard height and that's in dorm 3 which is closed down. See 1991 standards §§ 4.1.3 (1), 4.1.6 (1) (b), 4.15.2 > where drinking fountains are provided, there must be at least two, one spout must be no more than 36 inches above the floor so that it is accessible to wheelchair users, and one spout must be standard height so that it is accessible to those who have difficulty bending or stooping 2010 standards §§ 211, 602.7.

59. Throughout the facility, in areas where the inmates may operate doors independently, the doors have knobs, which require tight grasping and twisting of the wrist, some examples of such doors include the physical rehabilitation classroom near Dormitory 2-A, the law library, the dormitory 2-B dayroom, and the commissary. See 1991 standards §§ 4.1.(1) B(b), 4.1.3 (7) & 8), 4.13.9 > The common use interiors doors that may be operated by inmates must be operable without the grasping, tight pinching, or twisting of the wrist. 2010 standards §§ 231, 206.5, 404.2.7.

MONELL CLAIM

60. Plaintiff repeats, reiterates, and realleges, each and every allegation contained in paragraphs numbered "1" through "60" with the same force and effect as fully set forth herein.

61. That the defendants HEALTH AND HOSPITAL was responsible for the negligent acts and omissions of its agents, servants, affiliated physicians, physician assistants and/or employees at said detention facilities under the theory of respondeat superior.

62. The actions, omissions, or decisions of policy level officials of Defendant CITY and DOC were responsible for establishing the jails policies, customs, and practice for housing disable

inmates and providing them with reasonable accommodations to disable inmates in accordance with the American with Disabilities Act of 1990 Title II section 504 U.S.C §§ 12131, 12132, 12102, et, seq.

63. The custom and practice of not complying with title II of the American with Disabilities Act of 1990 (“ADA”) 42 U.S.C. 12131, et, seq, in the detention facilities was so persistent and widespread that it constitutes knowledge of defendants’ policy making officials.

64. Policy making officials of the CITY and DOC failed to properly train or supervise their respective subordinates in regards to the housing of disable inmates, affording them reasonable accommodations and being in compliance with title II of the ADA of 1990 42 U.S.C 12131, 12132, 12102 et, seq.

65. The actions or decisions of policy level officials of defendants CITY and DOC, and HHC who were responsible for establishing the jails policies, customs and practices for provision of medical care to inmates with disabilities and affording them reasonable accommodations and handicapped housing caused the violations of the plaintiffs rights.

66. The practice of denying adequate medical care, and reasonable accommodations and not complying with title II of the American with Disabilities Act of 1990, “ADA” §§ 12131, 12132, 12101, et, seq, retaliating and discriminating against disable inmates was so persistent and widespread that it constitutes a custom and usage of the defendants “CITY”, “DOC” and “HHC” and implies the constructive knowledge of the defendants policy making officials.

**AS FOR A FIRST CAUSE OF ACTION
DISCRIMINATION**

67. Plaintiff repeats, reiterates, and realleges each and every allegation contained in paragraphs numbers “1” through “67” with the same force and effect as if fully set forth herein.

68. The aforesaid acts by Defendants CITY, PONTE, SANDERS, PINNOCK, HEALTH AND HOSPITAL, BURGESS, EDWARDS, were undertaken as a part of a policy and practice of Defendants CITY to discriminate against handicapped inmates in DOC custody including the plaintiff.

69. Defendants knowingly and intentionally subjected a handicap inmates in the care, custody and control of “DOC” to a substantial risk of harm by placing him amongst “BLOOD” Security Risk Group, “SRG” inmates, being in violation of their own policies and procedures and the American with Disabilities Act, “ADA” 42 U.S.C. 12131, 12132, 12102, title II section 504.

70. Defendants discriminated against and showed deliberate indifference to plaintiff’s health and safety by not affording him reasonable accommodations, handicap housing and was grossly negligent in supervising subordinates who committed wrongful acts and allowed the continuances of such a policy or custom of denying disable inmates bed-space in handicap housing.

71. Doctors and Physician Assistants and the New York City Department of Corrections provided negligent and inadequate medical care to the plaintiff and failed to assure that he received reasonable accommodations in accordance to the mandates of the American with Disabilities Act of 1990 “ADA” 42 U.S.C. 12131, title II section 504.

72. That defendants CITY OF NEW YORK and HEALTH AND HOSPITAL CORP, and DOC failed to promulgate, enforce, abide, or follow appropriate rules, regulations, guidelines, procedures, policies, or protocols with respect to the mandates of the American with Disability Act of 1990 42 U.S.C. 12131, et. seq.

73. The Supervisory defendants of the HEALTH AND HOSPITAL CORP and DEPARTMENT OF CORRECTION, corrections officers, and Doctors approved of, oversaw, and

otherwise participated in the failure to provide handicap housing and reasonable accommodations to the plaintiff.

**AS FOR A SECOND CAUSE OF ACTION
FIRST, FOURTH, EIGHTH AND FOURTEENTH AMENDMENTS TO THE
UNITED STATES CONSTITUTION PURSUANT TO 42 U.S.C § 1983**

74. Plaintiff, repeats, reiterates, and realleges each and every allegation contained in paragraphs numbered “1” through “73” with the same force and effect as if fully set forth herein.

75. Defendants failure to provide plaintiff with handicap housing, reasonable accommodations or any assistance with his daily living, safe transportation, Auxiliary Aids and services, and defendants failure to provide plaintiff with sanitary and safe living conditions and basic human needs, including but not limited to mobility guide, shades for photo sensitive eyes, and appropriate access to medical care, and participation in the benefits, services, programs and activities, constitutes punishments in violation of the Fourth, and fourteenth Amendments to the U.S. Constitution, such punishment and deliberate indifference has caused plaintiff to endure substantial and unnecessary discomfort, pain and humiliations, and physical injury.

76. Defendants are aware that plaintiff is being deprived of his constitutional rights to be free from punishment and/or cruel and unusual punishment and either actively participated in the deprivation, failed to remedy the deprivation after being informed of the violations through reports, e-mails and/or grievances, complaints, created policies or customs under which unconstitutional practices have occurred, allowed the continuance of such policies or customs, were grossly negligent in supervising subordinates who committed wrongful acts, and/ or exhibited deliberate indifference top plaintiffs rights by failing to respond appropriately indicating that unconstitutional acts were occurring.

77. In retaliation for plaintiff complains, grievances defendants denied him handicap housing, denied him reasonable accommodations, increasingly hindered plaintiff access to handicap housing and assistive devices and Auxiliary Aids, and adequate medical care, have subjected plaintiff to cruel and unusual punishment all in violation of plaintiff right to petition the government for redress for grievances under the first Amendment to the U.S. Constitution.

78. During the aforementioned periods while plaintiff MICHAEL WALKER, was confined at the "OBCC" and "NIC" plaintiff repeatedly explained to said agents and employees of the CITY OF NEW YORK and HEALTH AND HOSPITAL CORP and DOC, that he had difficulty walking due to injury to the legs, and being legally blind, which problems necessitating medications, crutches, reasonable accommodations, handicapped housing, shower chair and mobility guide.

79. The City's agents, employees, observed plaintiff injuries to his legs, the crutches, and had difficulties in walking and seeing and observed that plaintiff couldn't use the shower at OBCC and was otherwise disable.

80. Notwithstanding the forgoing, defendants HEALTH AND HOSPITAL and DOC , was responsible for the negligent acts and omissions of its agents servants, affiliated physicians, physician assistants, correction officers and/or employees at said detention facilities under the theory of respondeat superior.

**AS FOR A THIRD CAUSE OF ACTION
NEGLIGENCE**

81. Plaintiff repeats, reiterates, and realleges, each and every allegation contained in paragraphs numbered "1" through "81" with the same force and effect as if set forth herein.

82. Pursuant to CPLR section, 1602 (5) defendants are jointly and severally liable for all of plaintiff damages, including but not limited to the plaintiffs non-economic loss, irrespective of

provisions of CPLR section 1601, by reason of the fact that defendants wrongful conduct was intentional.

83. Defendants are jointly and severally liable by reason of the fact that Defendant owed plaintiff a non-delegable duty.

84. That the forgoing injuries and damage to the plaintiff were caused solely by virtue of the carelessness, negligence and deliberate indifference and disregards on the part of the defendants CITY OF NEW YORK and HEALTH AND HOSPITAL CORP, DEPARTMENT OF CORRECTIONS, their agents, officers, affiliated physician, supervisors, interns, residents aides, nurses, and/ or their agents, officers, affiliated physician, interns, residents, aides, nurses and/or employees and without any negligence on the part of the plaintiff thereto.

85. Upon information and belief, the defendants CITY OF NEW YORK, failed to use reasonable care in the training and supervision of the aforesaid defendants DEPARTMENT OF CORRECTION, who failed to adequately care for and supervise plaintiff while in their custody at the "OBCC" and "NIC."

86. Defendant CITY is liable for any torts or liabilities of Defendant DOC, and HEALTH AND HOSPITAL CORP.

87. That by reason of the above acts and/or omissions of said defendant's plaintiff was forced to undergo physical pain and suffering, emotional distress, damage to personality, humiliation, damage to reputation, embarrassment, pain, nightmare and the inability to sleep without medication which rendered him sick, sore and lame and disable all totaling in the amount of \$150,000.00 or such other amount proven at trial.

88. Defendant aforesaid actions were so wanton and malicious and in violation of the public trust that an award of punitive damages of \$100,000.00 should be assessed against the defendants pursuant to 42 U.S.C. §§§§ 1983, 12131, 12101, 12132 (1) (b).

**AS FOR A FOURTH CAUSE OF ACTION
AMERICAN WITH DISABILITIES ACT VIOLATION**

89. Plaintiff repeats, reiterates, and realleges, each and every allegation contained in paragraphs numbered “1” through “88” with the same force and effect as if set forth herein.

90. Plaintiff is a “legally blind” individual in accordance to law, as well as a qualified individual with a disability who defendants refused to place in handicapped housing, which handicapped housing is operated, own and control by “DOC” and not the HEALTH AND HOSPITAL CORP.

91. Due to the plaintiff being a disabled inmate pursuant to the “ADA” and the laws of the State of New York, plaintiff should have been housed in handicapped housing upon admission into DOC and not with “SRG” inmates in violation of the policies and procedures of the New York City Department of Corrections and the “ADA.”

92. Defendants breach of their duty of care to the disabled plaintiff whom they knew, or should have known to be disabled, by not providing him with handicapped housing and reasonable accommodations accordance with title II of the “ADA” section 504, and the rehabilitation Act of 1973, and housing him with “SRG” inmates, which Defendant knew, or should have known to be gang members with a propensity for violence, caused plaintiff damages totaling in the sum of \$150,000.00 or such other amount proven at trial.

93. Defendants aforesaid actions were so wanton and malicious and in violation of the public trust that an award of punitive damages of \$150,000.00 should be assessed against the defendants pursuant to 42 U.S.C. 1983, 12131, et. seq.

**AS FOR A FIFTH CAUSE OF ACTION
CONTEMPT**

94. Plaintiff repeats, reiterates, and realleges, each and every allegation contained in paragraphs numbered “1” through “93” with the same force and effect as if set forth herein.

95. On May 12th, 1998, the Honorable Judge Lasker of this Court ordered defendants *inter alia* to provide cleaning and sanitation, provide appropriate handicapped showers and toilets, to properly dispose of all medical and infectious waste, and ensure appropriate heating and ventilation at Rikers Island, *Vega v. Koehler*, No 82 CV 6475 (S.D.N.Y. May 12th, 1998) defendants have failed to comply with this order and are therefore in contempt of court.

96. On October 12th, 1990 Judge Lasker ordered to provide *inter alia* appropriate medical care and ensure that patient are provided with specialty clinic in a timely and appropriate manner, *Vega v. Sielaff* No 82 Civ 6475 (S.D.N.Y Oct 12th, 1990) defendants have failed to comply with this order and are therefore in contempt of Court.

97. On January 30th, 2009, the Honorable Judge Robert P. Patterson ordered *inter alia* DOC shall improve accessibility in the NIC bathroom facility in Dorm 3 and 4 and fix the leaking roof by march 2009, that DOC provide a safe and accessible fire exit in the law library for wheel chair users, and make available non-slip shower mats and daily cleaning beneath the mats, and employ two non-disable inmates to assist with their daily living that HHC, and obtain (12) medical beds with safety bars for the use in Dorm 3 by December 2009, shall make available long and/or adjustable mobility canes, and transport visually impaired inmates in a safe consistent manner with the mandates of the “ADA” by December 2008, shall implement and follow procedures for the publication for Free matter for the blind and visually handicapped and change the cruel and inhumane, and dangerous living conditions that pose a risk of harm to Dorm 3 inmates, and the existence of a pattern and practice of discriminating against disable inmates with regards to access

to essential public services,; the alleged institutionalized and acquiescence of supervisory defendants Bennet v. City, et, al 07 Civ 2823 (RPP) (S.D.N.Y. January 30th, 2009) (Defendants have failed to comply with that order and are therefore in contempt of Court.

PRAYER FOR RELIEF

98. By reason of the foregoing, plaintiff demands an award of attorney fees in an amount to be determined at the time of trial pursuant to 42 U.S.C § 1988.

99. Plaintiff also request an injunction against defendants by enjoining and restraining them from continuing to have the handicap housing closed down and mandatorily compelling defendants to house all disable inmates upon admission to handicap housing as such as Dorm 3 at the "NIC" and change the existing policies and procedures and train staff on how to process disable inmates into the system.

100. Plaintiff seeks a judgment.

101. Plaintiff has suffered irreparable therefore the equities are in his favor.

WHEREFORE, Plaintiff MICHAEL WALKER, demands as follows, on the first, second and third count in the sum of one hundred and fifty thousand Dollars, \$150,000.00, on the fourth and fifth count the sum of one hundred and fifty thousand dollars \$150,000.00, and/or an injunction restraining defendants from discriminating against disable inmates and enjoining defendants and mandatorily directing defendants to house disable inmates in housing units for disable as NIC Dorm 3 and change the existing policies and procedures and train staff on how to process disable inmates into the system together with an award on interest from January 8th, 2017 and punitive damages of Two hundred Thousand dollars \$200,000.00 or such other amount as is proven at trial and attorney's fees in an amount to be determined at the time of trial 42 U.S.C. § 1988.

Dated October, 31, 2017 pursuant to 28 U.S.C. 1746 I declare under the penalty of perjury that the foregoing is true and correct.

A handwritten signature in black ink, appearing to read "Michael Walker", is written over a horizontal line.

Michael Walker, pro- se
Sullivan C.F.
325 riverside Drive
P.O. Box 116
Fallsburg, NY 12733-0116

2 sets

Form 2612B (4/15)
Page 1

PHOTOCOPY LOCALLY AS NEEDED

STATE OF NEW YORK - DEPARTMENT OF CORRECTIONS AND COMMUNITY SUPERVISION

REQUEST FOR REASONABLE ACCOMMODATIONS FOR INMATES WITH SENSORIAL DISABILITIES

Inmate's Name Walker, Michael DIN 17A3801 Facility Sullivan Date 10-2-2017☐ I do not request reasonable accommodations☒ I request reasonable accommodations as indicated below for the following program or service: _____

Check to indicate request

HEARING IMPAIRMENT		VISUAL IMPAIRMENT	
Requested	Approved	Requested	Approved
<input type="checkbox"/> Qualified Sign Lang. Interpreter	<input type="checkbox"/>	<input checked="" type="checkbox"/> Large Print	<input checked="" type="checkbox"/>
<input type="checkbox"/> TTD/TTY	<input type="checkbox"/>	<input type="checkbox"/> Orientation & Mobility Instruct	<input type="checkbox"/>
<input type="checkbox"/> Telephone Amplifier	<input type="checkbox"/>	<input checked="" type="checkbox"/> Mobility Assistants/Sighted Guide	<input checked="" type="checkbox"/>
<input type="checkbox"/> Closed Caption Television	<input type="checkbox"/>	<input checked="" type="checkbox"/> Guidance Cane	<input checked="" type="checkbox"/>
<input type="checkbox"/> Sound Amplification Systems	<input type="checkbox"/>	<input type="checkbox"/> Support Cane	<input type="checkbox"/>
<input type="checkbox"/> Hearing Aids/Batteries	<input type="checkbox"/>	<input type="checkbox"/> Braille Print	<input type="checkbox"/>
<input type="checkbox"/> Notification Systems	<input type="checkbox"/>	<input type="checkbox"/> Braille Equipment	<input type="checkbox"/>
<input type="checkbox"/> Visual Smoke Detector	<input type="checkbox"/>	<input checked="" type="checkbox"/> Magnifiers	<input checked="" type="checkbox"/>
<input type="checkbox"/> Preferred Seating	<input type="checkbox"/>	<input checked="" type="checkbox"/> Tape Player/Cassettes	<input checked="" type="checkbox"/>
<input type="checkbox"/> Shake Awake Alarm	<input type="checkbox"/>	<input checked="" type="checkbox"/> Lamp	<input checked="" type="checkbox"/>
<input type="checkbox"/> Pocket Talker	<input type="checkbox"/>	<input checked="" type="checkbox"/> Visor/Sunglasses for indoor use	<input checked="" type="checkbox"/>
		<input checked="" type="checkbox"/> Other <u>Talking watch</u>	<input checked="" type="checkbox"/>

[Signature]
(Inmate's Signature)J. Sircable, ORC
(Staff Name/Title)[Signature]
(Staff Signature)

MEDICAL VERIFICATION (Use established definitions)

- ☐ Severe Visual Impairment (V230) ☒ Legally Blind (B240) ☐ Not Significant Hearing Loss (HL30)
☐ Hard of Hearing (HL20) ☐ Deaf (HL10)
☐ No Medical Verification on File Follow-up Appointment Necessary? ☐ Yes ☐ No

J. Wolf, MD
(Medical Staff - Name/Title)[Signature]
(Med. Staff Signature)10-4-17
(Date)

Return this form to the Staff member whose name appears next to the inmate's signature above.

REASONABLE ACCOMMODATION DETERMINATION

The reasonable accommodations requested above have been:

- ☒ Approved as requested
☐ Modified - accommodations which have been approved are marked above
☐ Denied
☐ Pending medical verification

EXPLANATION of modification or denial: _____

[Signature]
(DSP or designee)[Signature]
(Signature)10/5/17
(Date)

This section is to be completed by the inmate.

- ☐ I agree ☐ I disagree with this determination
☐ I want to meet with the Superintendent or designee during this review.
☐ I want to have an interpreter with me or other assistive device during this meeting.

[Signature]
(Inmate's Signature)

(Date)

Form: B 7101R, Eff.: 09/10/12, Ref.: Dir. #3376 - page 1



City of New York - Department of Correction

INMATE GRIEVANCE AND REQUEST PROGRAM STATEMENT FORM

Inmate's Name: Michael Alshay	Book & Case #: 1411700256	NYSD # (optional):	
Facility: NIC	Housing Area: D1	Date of Incident: 7/20/2017	Date Submitted: 7/20/2017

All grievances and requests must be submitted within ten business days after the incident occurred, unless the condition or issue is ongoing. The inmate filing the grievance or request must personally prepare this statement. Upon collection by Inmate Grievance and Request Program (IGRP) staff, IGRP staff will time-stamp and issue it a grievance/request reference number. IGRP staff shall provide the inmate with a copy of this form as a record of receipt within two business days of receiving it.

Request or Grievance:

I am requesting a device to use
 beside of Law library to read
 off documents because I am unable
 to see due to being legally
 blind. Advance Glaucoma
 Lost of Sight

Action Requested by Inmate

That I am allow to have
 certain devices to help me
 with my paper work and material
 because I am unable see a

Please read below and check the correct box:

- Do you agree to have your statement edited for clarification by IGRP staff? ☐ Yes ☒ No
- Do you need the IGRP staff to write the grievance or request for you? ☐ Yes ☒ No
- Have you filed this grievance or request with a court or other agency? ☐ Yes ☒ No
- Did you require the assistance of an interpreter? ☐ Yes ☒ No

Inmate's Signature:

Michael Alshay

Date of Signature:

7/20/2017

For DOC Office Use Only:
 IGRP RETAINS THE DOUBLE-SIDED ORIGINAL FOR ADMINISTRATIVE RECORDS.
 IGRP MUST PROVIDE A COPY OF THIS FORM TO THE INMATE AS A RECORD OF RECEIPT.

Time Stamp Below:

Grievance and Request Reference #:



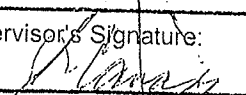
Ref # 53252

Category:

ADA

Inmate Grievance and Request Program Staff's Signature:

J. Canady

 CITY OF NEW YORK - DEPARTMENT OF CORRECTION 		
INMATE GRIEVANCE AND REQUEST PROGRAM		
DISPOSITION FORM		
Grievance/Request Reference #: WALKER, MICHAEL: 141-17-00256	Date Filed: 8/7/2017	Form: # 7102R Eff.: 09/10/12 Ref.: Dir. #3376 Facility: NIC: ANNEX: D1
Title of Grievance or Request: NON GRIEVABLE	Category: ADA	
From IGRP Inmate Statement Form, print or type short description of request/grievance: <u>GRIEVANT STATES HE IS</u> <u>REQUESTING A DEVICE TO USE INSIDE OF LAW LIBRARY TO READ OFF DOCUMENTS BECAUSE HE IS UNABLE TO</u> <u>SEE DUE TO BEING LEGALLY BLIND. ADVANCE GLAUCOMA: LOST SIGHT.</u>		
Action Requested by Inmate: <u>TO HAVE CERTAIN DEVICES TO HELP HIM SEE WITH HIS PAPER WORK AND LAW</u> <u>MATERIAL BECAUSE HE IS UNABLE TO SEE.</u>		
STEP 1: INFORMAL RESOLUTION		
Check one box: <input type="checkbox"/> Grievance <input type="checkbox"/> Request <input checked="" type="checkbox"/> Submission not subject to the IGRP process.		
The Inmate Grievance and Request Program proposes to informally resolve your grievance or request as follows below. Alternatively, IGRP staff shall provide an explanation for why the submission is not subject to the IGRP process.		
<u>ON 8/14/17, GRIEVANT INFORMED THAT HIS GRIEVANCE WAS FORWARD TO DISABILITY RIGHTS COORDINATOR.</u>		
Are you satisfied with the proposed resolution?		
<input type="checkbox"/> Yes, I accept the resolution. <input type="checkbox"/> No		
I request a formal hearing of the Inmate Grievance Resolution Committee within 5 business days from notification of the proposed resolution. I understand that if my submission involves a request to exercise religious beliefs or practices not currently available, then the Committee on Religious Accommodations will review my request		
Inmate's Signature:	Date:	Grievance Supervisor's Signature: 
		Date: <u>8/14/17</u>



CITY OF NEW YORK - DEPARTMENT OF CORRECTION

INMATE GRIEVANCE AND REQUEST PROGRAM

 Form: # 7102R
 Eff.: 09/10/12
 Ref.: Dir. #3376


DISPOSITION FORM

Attachment - C

If this is a submission not subject to IGRP process, DOC Grievance Supervisor must choose its category and write down the next steps for the inmate.

- | | |
|--|--|
| <input type="checkbox"/> Staff-on-inmate non-sexual assault (use of force) allegation
<input type="checkbox"/> Staff-on-inmate sexual assault/abuse allegation
<input type="checkbox"/> Staff-on-inmate non-sexual harassment
<input type="checkbox"/> Inmate-on-inmate non-sexual assault allegation
<input type="checkbox"/> Inmate-on-inmate sexual assault/abuse allegation
<input type="checkbox"/> Inmate-on-inmate non-sexual harassment allegation
<input type="checkbox"/> Status as an intended contraband recipient, enhanced restraint, Red ID, or centrally monitored case inmate | <input checked="" type="checkbox"/> Medical staff, e.g., complaints regarding quality of care, request for second medical opinion
<input type="checkbox"/> Mental health staff, e.g., complaints regarding quality of care, request for second medical opinion
<input type="checkbox"/> Request for protective custody (fear for safety)
<input type="checkbox"/> Request for accommodation due to disability
<input type="checkbox"/> Inmate disciplinary process and dispositions
<input type="checkbox"/> Freedom of Information law request
<input type="checkbox"/> Other |
|--|--|

Next steps:

FORWARD TO DISABILITY RIGHTS COORDINATOR

Date of Deadline for Status Update from Relevant Entity: N/A

Inmate's Signature:

Date:

Grievance Supervisor's Signature:

Date:

STEP 2: FORMAL HEARING OF INMATE GRIEVANCE RESOLUTION COMMITTEE

Formal Hearing Disposition: _____

Date returned to inmate: _____

IGRC Members Signatures: _____

Please decide within five business days of receipt whether to appeal (Check one box below.)

- ☐ Yes, I agree with the IGRC hearing disposition.
- ☐ No, I disagree with the IGRC hearing disposition and seek to appeal to the Commanding Officer.

Inmate's Signature:

Date:

Grievance Supervisor's Signature:

Date:

STEP 3: APPEAL TO THE COMMANDING OFFICER

Grievance Supervisor must check only one box below.

- ☐ Grievance forwarded to the Commanding Officer for action upon IGRC recommendation.
- ☐ Grievance not forwarded to the Commanding Officer (explain): _____

Grievance Supervisor's Signature:

Date:

**GRIEVANCE APPEAL
TO
WARDEN
OF THE
NORTH INFIRMARY COMMAND JAIL FACILITY
NYC DEPARTMENT OF CORRECTION**

8/18/17

, 20

To the Warden of NIC Jail Facility

I submitted the attached grievance for review by the IGRC. As provided in DOC Directive 3375R, I am appealing the denial of my grievance for the following reasons:



I have been unable to resolve my grievance to my satisfaction because:

I have been informed that the assistive devices was in the law library, however the law library officer has stated that Im unable to use it and Ive been denied reasonable accommodations Under the American with Disabilities Act, the ADA coordinator was suppose to assure that I got reasonable accommodations, and suppose to respond better to request for it, under Dir 3802

OR



(Check if no reply received) It has been more than three (3) working days since I submitted my grievance to the IGRC for a hearing and recommendation and I have not received a response. I deem my grievance to have been constructively denied by the lack of a response.

As required by Directive 3375R, please render a decision on this appeal within five (5) working days.

SIGN NAME

PRINT NAME

BOOK & CASE NUMBER

ACCOMMODATION DETERMINATION
ACKNOWLEDGEMENT FOR INMATESForm: 3802C
Eff.: 12/15/05
Ref.: Dir. #3802

Inmate's Last Name: <u>Walker</u>	Inmate's First Name: <u>Michael</u>	Date: <u>8/18/17</u>
NYSID #:	Book & Case #:	Facility/Housing: <u>M/C</u>

Note: Appropriate Department of Correction staff may assist an inmate in completing this form.

Below section to be Completed by the DRCI or Deputy Warden for Programs

Determination: Please be advised that the Disability Rights Coordinator for Inmates has received your request for an accommodation.

The Request is being reviewed, and you will be informed of a determination as soon as possible.

Chaplin
Signature of DRCI or Deputy Warden of Programs

8/18/17
Date

Below section to be completed by the Inmate, if the inmate agrees with the determination.

I agree with this determination.

Signature of Inmate

NYSID #

Date

~~If the requested accommodation is denied or modified by the Disability Rights Coordinator or Deputy Warden for Programs and you do not agree with that determination, please complete the below section.~~

I disagree with this determination and have been informed of my right to file a grievance through the Inmate Grievance Program and that a grievance based upon a modification or a denial of a request for a reasonable accommodation is deemed to be a Step II grievance.

[Signature]
Signature of Inmate

111 700 256
NYSID #

[Signature]
Date

Copies to: Inmate; Inmate's file; Counseling Services Unit; Deputy Warden for Programs; Disability Rights Coordinator for Inmates

Attachment B

Form #7101R, Eff 09/10/12, Ref.: Dir.#3376 – page 1

City of New York – Department of Correction

INMATE GRIEVANCE AND REQUEST PROGRAM STATEMENT FORM

INMATES NAME Michael Walker	BOOK & CASE# 141-17-00256	NYSID # (Optional)	
FACILITY NIC	HOUSING AREA Dorm 1	DATE OF INCIDENT 8/12/17	DATE SUBMITTED 8/13/17

Request of Grievance

I'am "legally blind" and requesting reasonable accommodations of a mobility guide to assist me with my daily living, there is suppose to be two inmates employed to assist legally blind and visually impaired inmates with their daily living however the disability Dorm is closed down and in Dorm 2 they have disbled inmates with inmate assistants available I need help. also Iam being transported via regualr bus when I suppose to be transported by para van transport with the shoulder strap, in accordance with the "ADA" requirements.

Action Requested by Inmate

That I be palced in handicapped hosuing and that I be via transported by Para Van. transported that disable inmates suppose to be transported in as per the Bennet. v. City, etal 2823 (RPP) settlement agreement stipulates...

Please read below and check the correct box:

Do you agree to have your statement edited for clarification by IGRP staff.?

☐ Yes ☒ No

Do You need the IGRP staff to write the grievance or request for you.?

☐ Yes ☒ No

Have you filed this grievance or request with a court or other agency.?

☐ Yes ☒ No

Did you require the assistance of an interpreter.?

☐ Yes ☒ No

Inmates Signature

Date of Signature

Time Stamp Below

Grievance and Request reference

Category:

Inmate Grievance and Request Program Staff's Signature

MICHAEL WALKER# 141-17-00256
NORTH INFIRMARY COMMAND, "NIC"
1500 HAZEN STREET Dorm 1
EAST ELMHURST, NY 11370

NYC DEAPRTMENT OF CORRECTION
75-20 Astoria Blvd
East Elmhurst, NY 11370

8/31/17

Re: Exhaustion of Administrative Remedies

Dear Sir/Madam:

I'am writing this complaint concening the issues attached to these enclose grievances, pertaining to reasonable accommodations for inmates with disabilities, Title II (subtitle A) of the American with Disability Act of 1990 prohibits public entities including the New York City Department of Corrections from discriminating against any qualified individual with an disability in their facilities, programs, services or activities See: Dir 3802, under Definitions III G. Department staff disability Rights Coordinator for inmates shall have responsibility and authority to: ensure that procedures for the prompt and equitable resolution of ADA compalints by inmates and/or request by inmates with disabilities for reasonable accommodations are in place, publicized, and implemented, process, investigate, and promptly act upon individual complaints and/or request for reasonable accommodations including oversight of any grievances filed by an individual regarding a denial, or modification of a request for reasonable accommodations, in Bennet v. City, et, al 2823 (RPP) settlement agreement stipulation it state that DOC Deputy Commissioner of Budget and Finance or his/her designee that Dorm # 3 roof be leak free and currently in good and safe condition, is structurally sound and does not require repair or replacement the roof still leaks, see attached greiavnce enclosed. There is no assistive device in the law library that "legally Blind" and visually impaired inmates can utilized, I was told that there was some in the law library then told by the law library officer BURGESS that I couldn't utilize the assistive devices which she discriminated against me in regards to programs and services available.

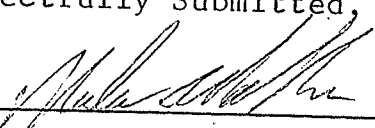
Safety improvements at (13) Showers DOC shall establish and implement a protocol that requires inmate assistants, see infra 15 to be trained to assist visually impaired inmates and wheelchair utilizing inmates in placing a shower mat on the floor of a selected shower area immediately prior to that inmate use of the shower at (15) DOC shall employ non disabled inmates to assist disabled inmates in Dorm# 3 with their daily living needs DOC shall provide no fewer than two (2) inmate assistants to be on duty at any one time between the hours 7:00am to 11:00 pm, the inmate assistants are to receive proper training and are clearly informed of their responsibilities and duties: see grievance attached, there is no inmate assistants on duty in Dorm # 1, and there is no non-slip shower mats in the shower to prevent inmates from falling I slip and fell in the shower and broke my leg in the past.

The vast majority of detainees housed in the North Infirmary Command, are not being processed into the system as depicted in directive 3802 reasonable accommodations, I was placed in general population at "OBCC" and placed with Security Risk group, "SRG" inmates in an upstairs housing unit when I'm "legally blind and have crutches and a broken finger.

finally, I'm respectfully requesting a full and thorough investigation into the above-mentioned allegations, moreover I would like to know exactly what reasonable accommodations purchases were made upon my alleged request, because there is no assistive devices in the law library and I was denied from utilizing them by law library officer Burgess.

Thank you ahead of time for your cooperation & consideration in these regards...

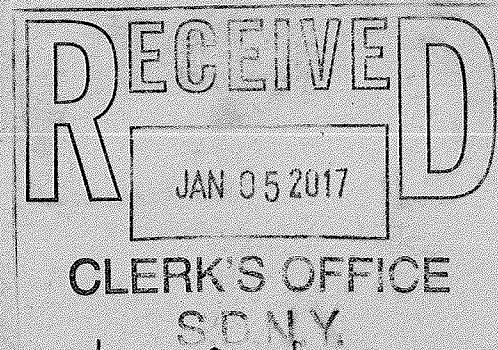
respectfully Submitted,


MICHAEL WALKER# 141-17-00256
NORTH INFIRMARY COMMAND, NIC
1500 HAZEN STREET
EAST ELMHURST, NY 11370

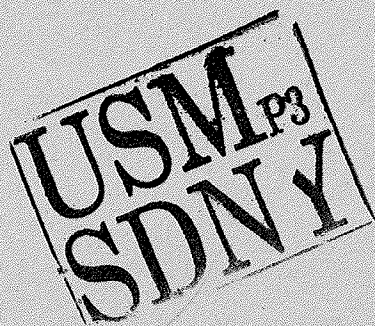
Mr Michael Walker 17A3801
Sullivan Correctional Facility
P O Box 116
Fallsburg NY 12733-116
O North 150

Free mail for the
Blind

Civil DKT
MG



Civil Court Clerk
United States Courthouse
Southern District
500 Pearl St
New York, NY 10007



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SDNY DOCKET UNIT
2018 JAN -8 AM 9:26

